

## BOARD OF BARBERING AND COSMETOLOGY

### FINAL STATEMENT OF REASONS

**Hearing Date:** June 13, 2011

**Subject Matter of Proposed Regulations:** Passing Grades in Examinations

**Sections Affected:** Section 932, California Code of Regulations

#### **Updated Information**

The State Board of Barbering and Cosmetology (hereinafter, "the Board") has made certain changes to the originally proposed specific language of the regulations after the original file was disapproved by the Office of Administrative Law over clarity issues. The changes are as follows:

- The modified text now clarifies that the examination is a single examination that consists of a practical demonstration and a written test. This new language is more consistent with the statute upon which the regulation is based (Section 7338, Business and Professions Code)
- The modified text clarifies that the passing score will be determined by the Board based on the recommendation of subject matter experts under the direction of the Board and its examination contractor. Although the Initial Statement of Reasons indicated that the Department of Consumer Affairs' Office of Professional Examination Services would also be involved in setting the passing grade, this is not the case.
- The modified text corrects the authority citation to include Section 7338 of the Business and Professions Code and corrects the reference citation by removing Section 139 of the Business and Professions Code.

#### **Local Mandate**

A mandate is not imposed on local agencies or school districts.

#### **Small Business Impact**

There is no significant impact to small business.

#### **Consideration of Alternatives**

No reasonable alternative which was considered or that has otherwise been

identified and brought to the attention of the board would be either as effective and less burdensome to affected private persons than the adopted regulation or more cost effective to affected private persons and equally effective in implementing the statutory policy on other provision of law.

### **Summary of, and Responses to, Comments Received During the 45-day Comment Period**

#### **Comment #1**

**Fred Jones, Counsel for the Professional Beauty Federation of California:**

Mr. Jones urged the Board to amend the proposed regulation's references to a "practical examination" and "written examination" to better reflect the language of the authorizing statute, Section 7338 of the Business and Professions Code. While not opposed to the inclusion of "criterion-referenced scoring" in regulation, Mr. Jones expressed concern that the proposed regulation might be too vague and undermine or contradict some of the provisions of Section 7338 of the Business and Professions Code, notably the primacy of the practical portion of the exam.

*Board Response:* The Board rejects these comments. The Board believes the new language is clear. The Board has also made a commitment to adopting criterion referenced scoring of examinations that will follow the mandate of Section 7338 regarding the primacy of practical demonstrations over written tests.

### **Summary of, and Responses to, Comments Received During the 15-day Comment Period on the Modified Text**

No comments were received.